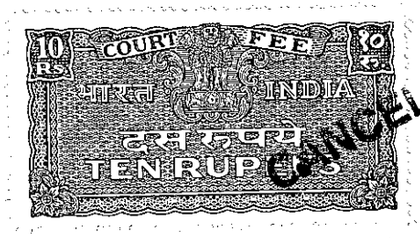

(3)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.C.C..NO. 110 /2005

(ARISING OUT OF THE ORDER DTD. 18.10.2004, PASSED IN WP NO. 2527/2004)

PETITIONER / RESPONDENT NO.4 — Rajesh Agrawal, aged about 26 years, son of Shyam Sunder Agrawal, resident of village Hirri, Bilha Square, Bilaspur (C.G.)

VERSUS

RESPONDENTS / PETITIONER

1. Deepak Kumar Soni aged about 24 years, son of Lekh Ram Soni, R/o. Gondpara, Bilaspur (C.G.)

2. The State of Chhattisgarh, through - Its Secretary, Department of Health and Family Welfare, D.K.S. Bhawan, Bilaspur (C.G.)

3. The Director, Department of Health and Family Welfare, D.K.S. Bhawan, Raipur (C.G.)

4. Adhisthata (DEAN), the Chhattisgarh Institute for Medical Science, Bilaspur (C.G.)

P.R. No. 1393/05 Presented by Shri ... dated 12.5.05

Amended as per order dated 13.5.05

Attested

APPLICATION FOR REVIEW OF THE ORDER PASSED IN WRIT PETITION NO. 2527/2004, ON 18.10.2004 IN CASE "DEEPAK KUMAR SONI - Vs - STATE OF CHHATTISGARH AND OTHERS"

XI-HC—78

(87)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.C.C.Nos.110/2005 and 118/2005 सन् ~~200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

13-9-2005

Mr. G.S. Agrawal, Senior Advocate with Mr. K.R. Nair, Advocate for petitioner Rajesh Agrawal in M.C.C.No.110/2005.

Mr. Kanak Tiwari, Senior Advocate with Mr. Rahul Jha, Advocate for petitioner Deepak Kumar Soni in M.C.C.No.118/2005.

Mr. Sandeep Dubey, Govt. Advocate for the State of Chhattisgarh.

Oral order.

This order shall govern the disposal of M.C.C.No.110/2005 filed by Rajesh Agrawal for review of order dated 18.10.2004 passed by this Court in W.P.No.2527/2004, and also M.C.C.No.118/2005 filed by Deepak Kumar Soni for clarification of order dated 18.10.2004. As both these M.C.C.s are relating to the same order, therefore, they are being disposed of by this common order.

Brief facts leading to filing of these M.C.C.s are that Deepak Kumar Soni, who has filed M.C.C.No.118/2005 and W.P.No.2527/2004, as well as Rajesh Agrawal, who has filed M.C.C.No.110/2005, appeared in the Pre-Medical Test (for short P.M.T.) Examination, 2004. Deepak Kumar Soni appeared as OBC category candidate, whereas Rajesh Agrawal appeared as unreserved category candidate. Deepak Soni secured 235th position in the merit list and he also secured first position in the disabled/handicapped class. Accordingly, Deepak Soni was

(88)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

intimated to appear for counselling and in response to that communication, he appeared for admission before the Dean, Medical College, Raipur on 6-8-2004. However, the Dean refused to give admission to him against the disabled/handicapped class on the ground that the seat is meant for unreserved category disabled class candidate whereas, Deepak Soni appeared in the said PMT Examination as OBC candidate, further that he had secured only 49.33% marks in the 10 + 2 qualifying examination, therefore, he was not eligible to appear in the said PMT examination as unreserved category candidate for which the minimum percentage was 50%.

Deepak Soni's case is that it is true that as per the PMT Rules, an unreserved category candidate who had secured 50% marks in the qualifying examination was eligible to appear in the PMT Examination, whereas, SC/ST and OBC candidates who had secured 40% marks in the qualifying examination were eligible to appear in the PMT Examination. But, once a candidate appeared in the said PMT Examination, whether under the unreserved category quota or SC/ST or OBC quota, his merit is to be decided as per the marks secured by him in the PMT Examination irrespective of his percentage in the qualifying examination. As such, his challenge is that decision Annexure P-1 of the Dean, Medical College, Raipur, is contrary to the Rules and not legal, and he prayed that the communication Annexure P-1 be quashed and by way of writ of

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

mandamus the respondents be directed to grant admission to Deepak Soni as per Annexure P-2.

Return was filed on behalf of respondents No.1 to 3 in W.P. No.2527/2004, in which it has been mentioned that Deepak Soni secured 531 marks out of 900 in the PMT examination and his rank was 230. It has further been mentioned that last date for submission of application form for appearing in PMT examination was 24-4-2004 and till that time there was no separate quota for handicapped persons. However, vide amendment inserted on 5th May, 2004, in Rule 4 (5) definition was amended so as to include handicapped as a Class in addition to Sainik etc., and that amendment further conferred benefit of horizontal reservation to the handicapped persons by suitably amending Rule 4 (5) to the extent of 3%, vide notification Annexure R-1, and the schedule is Annexure R-2. As per Annexure R-2 total seats and details of seats allotted for admission on the basis of All India quota as well as Central Government nominees and free PMT seats available for admission through PMT has been shown. The Schedule also gives break-up of vertical as well as horizontal reservation. As per the Schedule, 11 seats were reserved for OBC category and by virtue of the amendments introduced by Annexure R-1, handicapped class was given only 3% vertical reservation, and 3% of 11 seats comes to 0.33 i.e. less than half, therefore, no separate horizontal reservation for handicapped persons

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

of OBC was made. Copy of the table of seats available of different categories and classes as per vertical reservation as well as horizontal reservation as amended by Annexure R-1 is Annexure R-3, which clearly demonstrates that the amendment introduced vide Annexure R-1 could confer tangible benefits only to handicapped class belonging to unreserved category and ST category who were given that benefit.

The candidate who had secured less than 50% marks in the Higher Secondary Examination could appear in the PMT Examination only if he belonged to any of the reserved categories. Deepak Soni had secured 49.33% marks, in the Higher Secondary Examination, which is less than 50%, therefore, he was eligible to appear in the PMT Examination as an OBC candidate. Hence, he cannot be allowed to take any benefit of horizontal reservation, which is meant for unreserved category. The very fact of Deepak Soni's eligibility to appear in the PMT Examination depends upon the fact that he belongs to OBC category disentitles him to claim benefit of horizontal reservation meant for unreserved seats.

However, Rajesh Agrawal who was arrayed as respondent No.4 in the above writ petition (W.P.No.2527/2004) was given admission against the unreserved handicapped class seat even though he secured less marks than Deepak Soni in the PMT examination. Notice of this petition was issued to respondent No.4 Rajesh Agrawal. An affidavit of service was filed on behalf of Deepak Soni that the notice issued to Rajesh

(91)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Agrawal has been left in the Office of Dean, and one Komal Das, receipt clerk, has received the notice and acknowledged on 1-10-2004, therefore, the service has been affected. However, Rajesh Agrawal did not appear, and after hearing counsel for the parties, the petition of Deepak Soni (W.P.No.2527/2004) was allowed by this Court vide order dated 18th October, 2004. The Director, Medical Education and the Dean, Medical College, Raipur, were directed to consider the admission of Deepak Soni against the handicapped quota seat reserved in unreserved category seats.

Against this order Rajesh Agrawal preferred a Letters Patent Appeal before the Division Bench of this Court, which came to be registered as L.P.A.No.64/2004 and interim stay was granted in that L.P.A. against the order dated 18-10-2004 passed by this Court. However, vide order dated 29-4-2005 the said L.P.A. along with other bunch of LPAs were dismissed on the ground that Letters Patent Appeals are not maintainable. Therefore, the legality and correctness of order dated 18-10-2004 could not be tested by the Division Bench. That forced Rajesh Agrawal to file review petition against the order of this Court dated 18-10-2004. In these circumstances, he filed review petition M.C.C.No.110/2005 on 12-5-2005 on the ground that the notice of W.P.No.2527/2004 was not served upon him, therefore, he could not appear and the order dated 18-10-2004 was passed without hearing him

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 6 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

prejudicial to his interest, as such the order be set aside and his case be reviewed.

I have heard Mr. G.S. Agrawal, learned Senior Advocate with Mr. K.R. Nair, learned Advocate on behalf of Rajesh Agrawal; Mr. Kanak Tiwari, learned Senior Advocate with Mr. Rahul Jha, learned Advocate on behalf of Deepak Soni; and Mr. Sandeep Dubey, learned Govt. Advocate on behalf of the State of Chhattisgarh.

Perusal of the affidavit filed by Deepak Soni as well as the copy of notice through which the notice was served in the Medical College, Raipur shows that notice was left at the Office of Dean, Medical College, Raipur on 1-10-2004. The notice was made returnable by 6-10-2004. After filing this review petition, Deepak Soni has not been able to show or produce any material before the Court through which it can be presumed or it can be held that the said notice was served upon Rajesh Agrawal by the Medical College. It is true that the said notice was in the name of Rajesh Agrawal, C/o Dean, Pt. Jawaharlal Nehru Medical College, Raipur, but the fact remains that there is nothing on record which shows that the Dean had served the said notice on Rajesh Agrawal before the decision of that writ petition. The notice was left at the Office of Dean, Medical College, Raipur on 1-10-2004 and it was specifically in the name of Rajesh Agrawal. Hence, it was the duty of the Dean, Medical College, Raipur, where Rajesh Agrawal was studying, to

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —7—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

ensure that the notice was served upon Rajesh Agrawal, but unfortunately, as has been mentioned above, nothing has been placed on record, which shows that the notice was served upon Rajesh Agrawal. In the circumstances, Rajesh Agrawal cannot be held responsible for such a lapse of the Dean, Medical College, Raipur. Therefore, on this count, I am of the considered opinion that order dated 18-10-2004 deserves to be reviewed as Rajesh Agrawal could not get opportunity to represent and argue his case before this Court. Accordingly, order dated 18-10-2004 is reviewed and Mr. G.S. Agrawal, Senior Advocate appearing on behalf of Rajesh Agrawal is permitted to argue on main W.P. No.2527/2004.

I have also heard Mr. G.S. Agrawal, learned Senior Advocate with Mr. K.R. Nair, learned Advocate on behalf of Rajesh Agrawal; Mr. Kanak Tiwari, learned Senior Advocate with Mr. Rahul Jha, learned Advocate on behalf of Deepak Soni; and Mr. Sandeep Dubey, learned Govt. Advocate on behalf of the State of Chhattisgarh, on merits of the case.

The main thrust of argument of Mr. G.S. Agrawal, learned Senior Advocate was that as the horizontal reservation was made for disabled candidates compartment-wise, Deepak Soni was not a candidate of unreserved category, and he appeared in the examination as OBC reserved category candidate, therefore, he was not entitled for

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -8-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

admission in the handicapped class reserved for unreserved category candidates.

On the other hand, Mr. Kanak Tiwari, learned Senior Advocate submitted that as per the mandate of Section 39 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act of 1995'), "all Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities". Deepak Soni secured high marks than Rajesh Agrawal in the competitive PMT Examination, therefore, on merit Deepak Soni was entitled for admission, being a handicapped candidate, against the seat reserved for disabled quota, as the unreserved category seats were meant for all categories, provided the candidate secures high marks then he will be entitled for admission on merit. Therefore, Deepak Soni was entitled for admission. Mr. Kanak Tiwari further argued that the Schedule prepared by the Director, Medical Education showing break-up of vertical as well as horizontal reservation was defective as in this Schedule, only two seats have been reserved for handicapped candidates, whereas, total number of seats for the first year M.B.B.S. course was 100. Therefore, as per Section 39 of the Act of 1995, the Dean, Medical College, Raipur and the Director, Medical Education were duty bound to give admission to three students, whereas

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

as per the Schedule only two seats were reserved for handicapped class. He further argued that the brochure issued by respondents No.2 & 3 further shows that while undertaking admission process, respondents No.2 & 3 were required to give admission first to all kinds of reserved category candidates and thereafter only remaining seats were to be filled based on merit as per Regulation 8 of the Medical Council of India (Criteria for Identification of Students Admitted in Excess of Admission Capacity of Medical Colleges) Regulations, 1997 (for short 'the Regulations of 1997). Therefore, in the first instance, respondents No.2 & 3 were required to give admission to three candidates of disabled class.

Having heard learned counsel for the parties, I have perused the record, relevant Rules of the brochure, and the provisions of the Act of 1995 and the Regulations of 1997 issued by the Medical Council of India regarding admission into medical colleges.

Now, coming to the first point whether Deepak Soni was entitled for admission under the unreserved category as a disabled class candidate, Rule 5 of the Chhattisgarh Chikitsa Tatha Dant Chikitsa Snatak Pravesh Pariksha Niyam, 2003, envisages selection process. Sub-rule (2) of Rule 5 prescribes that merit list for reserved and unreserved seats shall be prepared on the basis of marks obtained in Chemistry, Physics, Zoology & Biology. In the merit list roll number, name, cadre

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - (9) -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	and category along with total number of marks secured by the candidates were to be mentioned. The merit list was to be prepared category-wise. However, while preparing the unreserved category list, names of unreserved category as well as reserved category candidates were to be mentioned in the chronological order on the basis of marks obtained by each candidate. Therefore, second part of sub-rule (2) of Rule 5 lays down that even the reserved category candidates were entitled to have their position in the unreserved category list provided their ranks come within unreserved category seats on the basis of marks secured by them in the PMT examination. In other words, unreserved category list was to be prepared on the basis of marks secured by candidates irrespective of their category. Even the reserved category candidates were entitled to be ranked in the unreserved category seats provided they secure their position in the unreserved category seats on the basis of marks obtained by them. This further indicates that unreserved category seats were available to all the candidates on the basis of their merit irrespective of the category they belonged and out of these unreserved category seats, one seat was reserved on horizontal basis for the handicapped class candidate, therefore, applying the same formula, Deepak Soni even though appeared as an OBC candidate, but being a handicapped candidate, was entitled for handicapped seat reserved under unreserved category seats on the basis of his merit.	

(9T)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —11—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

It is admitted position that Deepak Soni had secured more marks than Rajesh Agrawal who appeared as an unreserved category candidate. Therefore, I do not find any substance in the arguments of learned counsel for the respondents that Deepak Soni, who had appeared as an OBC candidate and having less than 50% marks in the qualifying examination, was not entitled for admission against unreserved category handicapped class seat. This part-2 of sub-rule (2) of Rule 5 is answer to the arguments of learned counsel for the respondents that irrespective of the fact that SC/ST and OBC candidate was eligible to appear in the examination on the basis of 40% or more marks secured by him in the qualifying examination, but while preparing the merit list, he was entitled to have his rank in the merit list on the basis of marks secured in the PMT examination. As mentioned above, when 3% reservation of handicapped candidates was to be made as per sub-rule (5) of Rule 4, then handicapped candidates belonging to SC and OBC, for whom no separate reservation was made in their category, cannot be denied admission if any one had secured more marks than a handicapped candidate of unreserved category.

As has been mentioned earlier, for handicapped class candidates of OBC & SC, separate seats were not reserved by the respondents as the seats meant for SC & OBC were 11 & 12 and 3% of the same was less than half, therefore, no separate reservation for handicapped category

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -12-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

of these categories was made. Even otherwise, the Schedule prepared by respondents No.2 & 3, as mentioned in the earlier part of this order, was defective for the reason that only 2 seats i.e. 2% reservation was made for disabled class candidates, whereas, the respondents were required to make reservation for disabled class candidates not less than 3% as per the provisions of Section 39 of the Act, 1995. Therefore, they ought to have admitted three students in accordance with the provisions of Section 39 of the Act of 1995. Three candidates were entitled for admission and only three candidates were available, therefore, respondents No.2 & 3 could have easily admitted i.e. Deepak Soni, Rajesh Agrawal, and the third candidate of ST was already admitted.

At the time of arguments, the Director, Medical Education as well as the Dean, Medical College, Raipur, were present in the Court, and they have stated that one seat had already fallen vacant in the month of March, 2005 and against the seat Rajesh Agrawal can be adjusted. In order to give full effect to Section 39 of the Act of 1995 and also to save the career of students, who are litigating since last about one year, the respondents are directed to give admission to Deepak Soni and also to Rajesh Agrawal as one seat has already fallen vacant. It was also informed to the Court that pursuant to the Court order dated 18.10.2004, Deepak Soni was allowed to attend the classes and he was

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 13 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

~~attending classes, therefore, looking to this fact also, there should not~~ be any difficulty in giving admission to both the candidates.

It will not be out of place to observe for future guidance of respondents No.2 & 3 that as per the mandate of Section 39 of the Act of 1995, not less than 3% seats can be reserved for disabled candidates. There are 100 seats in Medical College, Raipur, therefore, they have to reserve three or more seats for disabled candidates, as such, in the category of SC & OBC, looking to seats reserved for them, 3% comes to less than 0.50%, in that case, the respondents can reserve 3rd seat meant for disabled candidates in rotation for OBC & SC category candidates in order to utilize the third seat or they can prescribe 3rd seat for OBC & SC, and if candidate of disabled class qualifies from these two categories, he shall be given admission against the 3rd seat or the authorities can devise any other method, but it is clear that the 3rd seat is to be utilized for SC & OBC.

Now coming to M.C.C.No.118/2004 filed by Deepak Soni for direction to the Dean, Medical College, Raipur, to give admission to him is concerned, Mr. Kanak Tiwari, learned Senior Advocate argued that Deepak Soni was not being admitted on the ground that in the order dated 18-10-2004 this Court while allowing the writ petition directed the respondents to consider the case of the petitioner for admission against the handicapped quota seat, and there was no clear direction for

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —14—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

giving admission to Deepak Soni as was told by the Dean, Medical College, Raipur to Deepak Soni. It is unfortunate that the Dean, Medical College, Raipur and the Director, Medical Education, even after reading the whole judgment could not make out as to what were the directions issued by this Court. If they were having any doubt in their minds, then they ought to have sought opinion from the Law Department or Law Officers of the State, but they were not entitled to sit over the order of this Court on the pretext that since the Court has directed to consider the admission, as such, there was no specific direction for giving admission. When the petition of the petitioner was allowed on the ground, which was not considered by the respondents for giving admission to him, then the respondents ought to have considered the case of the petitioner for admission, of course subject to the petitioner's fulfilling other requisite conditions. The word 'consider' was used with a view that if petitioner Deepak Soni was not entitled for admission on any ground other than the ground considered by this Court in the writ petition, then they were entitled to refuse admission. Such directions are normally issued so that the concerned authority can consider admission of the candidate taking into consideration all the eligibility criteria and other conditions for admission.

(10)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -(5)-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

In the result, the above two MCCs are disposed of in the above terms and the respondents are directed to give admission to Deepak Soni and to Rajesh Agrawal, against the seat which has fallen vacant as Rajesh Agrawal is already pursuing his studies. If necessary, they can move the Medical Council of India for getting approval of the admissions.

I.A.No.2466/2005

This application has been filed in M.C.C.No.118/2005 on behalf of Deepak Soni, that first term examinations of the first year M.B.B.S. course have started from 9th of this month, and therefore, the respondents be directed to allow Deepak Soni to appear in the said examinations.

Mr. Sandeep Dubey, learned Govt. Advocate submitted that the respondents are ready to allow Deepak Soni to appear in the examinations when they are going to be held in next term.

Having considered the fact that Deepak Soni, as per the statement made by the Dean, Medical College, Raipur, before the Court, was allowed to attend classes and he was attending the classes, therefore, I am of the opinion that there should not be any difficulty for the respondents to allow Deepak Soni to appear in the examinations which are in progress.

In view of the fact that Deepak Soni's writ petition was allowed as back as in the year 2004, and under a misconception he was not given

(10)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

admission, however, he was allowed to attend classes, therefore, he should be allowed to appear in the examinations also which are in progress. In respect of the papers, which have already been held, Deepak Soni may be allowed to appear in those papers in the examinations, which are going to be conducted after six months.

Accordingly, I.A.No.2466/2005 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge